

**UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA**

ROBERT C. BONNET,)
Plaintiff,)
vs.)
HARVEST (US) HOLDINGS, INC., *et al.*,)
Defendants.)
Case No. 2:11-cv-00315-RLH-GWF
ORDER
Motion to Compel (#7)

This matter is before the Court on Defendants Harvest (US) Holdings, Inc. and Elton Blackhair's Second Motion to Compel Compliance with Subpoenas (#7), filed August 26, 2011.

This case arises from allegations that Plaintiff suffered \$10 million in damages from Defendants' conspiracy to interfere with a bid for oil and gas leases submitted by Trek Petroleum Company ("Trek") to the Ute Indian Tribe. (*See* Utah District Court Docket No. 2:10-cv-00217.) On February 25, 2011, Defendants filed their first Motion to Compel (#1), requesting this Court order Trek to produce documents in response to a subpoena issued on December 13, 2010. No opposition was filed to that motion. On March 25, 2011, the Court granted Defendant's Motion ordering Trek to produce all responsive documents without objection by April 4, 2011. (*See* #4.)

The December 13, 2010 subpoena sought documents from Trek concerning commercial operations related to oil and gas exploration on tribal lands that Defendants contend are relevant to an action currently proceeding in the U.S. District Court for the District of Utah (2:10-cv-0217). In response to the Court's Order, Trek produced approximately 170 pages of correspondence related to its business dealings with Plaintiffs. (*See* Defs' Motion, Exhibit 2.) During subsequent conversations between Defendants and Trek, additional documents were produced. Defendants contend however that Trek still has not produced all the documents required by the December 13,

1 2010 subpoena. Specifically, Defendants claim Trek failed to produce any of its emails to Bonnet,
2 having apparently removed Trek's email responses from within the same email chains prior to
3 producing them. (*See* Def's Motion, Exhibit 2.)

4 On May 23, 2011, Defendants served a second subpoena on Trek, requesting documents
5 that would provide Defendants with a broader understanding of the scope of Trek's business and
6 whether Trek had the ability to transact business relating to tribal lands, as Plaintiffs allege. Trek
7 failed to produce any document in response to the May 23, 2011 subpoena. Defendants now
8 request an order compelling Trek to respond to the May 23, 2011 subpoena and compelling Trek
9 to fully comply with the Court's previous Order (#4). Defendants also request sanctions against
10 Trek for withholding documents and failing to comply with the Court's Order.

11 Defendants have demonstrated diligence in trying to obtain the subpoenaed document from
12 Trek without the Court's intervention. It appears however that Trek has failed to produce all the
13 documents in compliance with this Court's Order (#4), and has failed to respond in any way to the
14 May 23, 2011 subpoena. To date, no party has responded to this motion and the time for
15 opposition has now passed. LR 7-2(d) states in pertinent part, that "[t]he failure of an opposing
16 party to file points and authorities in response to any motion shall constitute a consent to the
17 granting of the motion." Upon review and consideration of Defendants' motion to compel and
18 Trek's failure to file any response to the motion, the Court grants Defendants' Second Motion to
19 Compel. The Court will consider Defendants' request for sanctions against Trek and issue a
20 separate order on that matter. Accordingly,

21 **IT IS HEREBY ORDERED** that Defendants Harvest (US) Holdings, Inc. and Elton
22 Blackhair's Motion to Compel (#1) is **granted** as follows:

23 Trek Petroleum Company shall substantively respond to the May 23, 2011 subpoena and
24 the Court's Order (#4) by producing all responsive documents without objection by **October 1,**
25 **2011.**

26 DATED this 21st day of September, 2011.

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28 **GEORGE FOLEY, JR.**
United States Magistrate Judge